

Federal Communications Commission

DA 00-2421

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Glenville, West Virginia)) MM Docket No. 00-212
) RM-9988
)
(Pigeon Forge, Tennessee)) MM Docket No. 00-213 ✓
) RM-9989
)
(Lincolnton, Georgia)) MM Docket No. 00-214
) RM-9990
)

NOTICE OF PROPOSED RULE MAKING**Adopted: October 18, 2000;****Released: October 27, 2000****Comment Date: December 18, 2000****Reply Comment Date: January 2, 2001**

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a multiple docket Notice of Proposed Rule Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule Making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MM Docket No. 00-212; RM-9988**Petitioner:** Donald Staats d/b/a Media StaatsP.O. Box 1346
Parkersberg, WV 26102**Proposal:** Allot Channel 299A at Glenville, West Virginia as the community's first local aural transmission service.¹

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Glenville, West Virginia	-----	299A

Coordinates: 38-55-43 NL and 80-50-47 WL**Additional Information:** This allotment requires a site restriction of 1.0 kilometers (0.6 miles) southwest of city reference coordinates.**FCC Contact:** Arthur D. Scrutchins (202) 418-2180**B. MM Docket No. 00-213; RM-9989****Petitioner:** Bernice P. HedrickP.O. Box 27
317 Stonegables Ct.
Gray, Georgia 3103**Proposal:** Allot Channel 292A at Pigeon Forge, Tennessee as the community's first local aural transmission service.²

¹ In support of his proposal, petitioner states that Glenville, population 2,300 persons is an incorporated community and is the county seat of Gilmore County with a current population of approximately 7,143 persons. A major employer is Glenville State College. Present college enrollment is approximately 2,235 persons. Glenville is the retail center for the county and the largest community in the county. There are two local weekly newspapers published in the county.

² In support of its proposal, petitioner states that Pigeon Forge is an incorporated community with its own city

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Pigeon Forge, Tennessee	--	292A

Coordinates: 35- 43-33 NL and 83-31-18 WL

Additional Information: This allotment requires a site restriction of 7.5 kilometers (4.7 miles) southeast of the city reference coordinates for Pigeon Forge, Tennessee in order to avoid a short-spacing to the licensed site of Station WRIL-FM, Channel 292A Pineville, Kentucky.

FCC Contact: Arthur D. Scrutchins (202) 418-2180

C. MM Docket No. 00-214; RM-9990

Petitioner: H. David Hedrick
P.O. Box 27
317 Stonegables Ct.
Gray, Georgia 31032

Proposal: Allot Channel 254A at Lincolnton, Georgia as the community's first local FM transmission service.³

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Lincolnton, Georgia	-----	254A

Coordinates: 33-40-37 NL and 82-30-18 WL

government located in Sevier County and has a 1990 U.S. Census population of 3,027 people and a county population of 51,043 persons. Pigeon Forge also has a post office and a zip code. There are three schools within Pigeon Forge, including an elementary school, middle school and high school. Pigeon Forge has six banks, three medical clinics, churches, and many civic and social clubs. The primary area of employment is in the form of tourism, industry and agriculture.

³ In support of its proposal, petitioner states that Lincolnton is an incorporated community located in Lincoln County. Lincolnton has a 1990 U.S. Census population of 7,442 persons. Lincolnton city government consists of an elected mayor and city council. Lincolnton has its own zip code and post office and one weekly local newspaper. There are two schools, an elementary and high school. Lincolnton has a bank, medical clinics, churches and many civic and social clubs.

Additional Information: This allotment requires a site restriction of 13 kilometers (8.1 miles) south of the city reference coordinates for Lincolnton, Georgia in order to avoid a short spacing to the licensed site of Station WSPA-FM, Channel 255C, Spartanburg, South Carolina.

FCC Contact: Arthur D. Scrutchins (202) 418-2180

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket Notice of Proposed Rule Making should reference only the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before **December 18, 2000**, and reply comments on or before **January 2, 2001**, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules. 46 FR 11549 (February 9, 1981).

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in particular docket unless the Commission specifically waives this service requirement. Any

comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

**John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau**

Attachment: Appendix

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall

be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W.; TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Center (Room 239) at its headquarters, 1919 M Street, N.W., Washington, D.C.